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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C. 20554  
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FEB 7 1997  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In re )  
)  
Review of the Commission's ) MM Docket No. 91-221  
Regulations Governing )  
Television Broadcasting )  
)  
Television Satellite ) MM Docket No. 87-7  
Stations Review of Policies )  
and Rules )

TO: The Commission

**COMMENTS OF GLENWOOD COMMUNICATIONS CORPORATION**

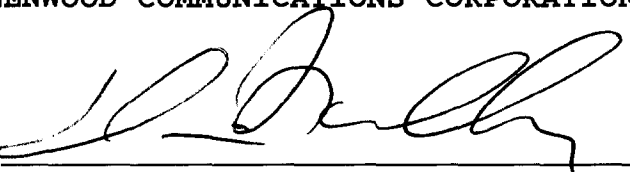
Glenwood Communications Corporation (Glenwood), by its attorney, hereby respectfully submits its Comments in the above-referenced proceedings. Those comments are stated in the attached statement, executed by George E. DeVault, Jr., President of Glenwood.

Respectfully submitted,

**GLENWOOD COMMUNICATIONS CORPORATION**

LAW OFFICE OF DENNIS  
J. KELLY  
Post Office Box 6648  
Annapolis, MD 21401

By

  
Dennis J. Kelly  
Its Attorney

February 7, 1997

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**COMMENTS OF GLENWOOD COMMUNICATIONS CORPORATION**

**Background and Introduction**

1. Glenwood Communications Corporation (GCC) hereby presents its comments on the Commission's Further Notice of Proposed Rulemaking in the above referenced matters. GCC (known prior to July, 1993 as The Home News Company) is the parent of Holston Valley Broadcasting Corporation (Holston), which is the licensee of full-service television station WKPT-TV; channel 19; Kingsport, Tennessee, and four television translator stations located in various communities in Tennessee and Virginia. Holston is also the licensee of five Low Power Television (LPTV) stations in Kentucky, Virginia, and Tennessee. Three AM stations and one FM station plus two FM translators all located within the Johnson City-Kingsport-Bristol, TN/VA MSA are also licensed to Holston. Holston has entered into a Time Brokerage Agreement by which it will provide programming and commercial content to an as yet un-built FM station in the same MSA, whose permittee has no other connection to Holston.

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2. Through other subsidiaries GCC controls two other LPTV stations located in Florida and holds a 45% interest in independent full service television station WAXN(TV); channel 64; Kannapolis, North Carolina, and is the minority share-holder in a Corporation, which in turn is one of several applicants for a permit to construct a full service UHF television station to be licensed to Tazewell, Tennessee. Much of WAXN(TV)'s commercial time is sold by another party through a Joint Sale Agreement (JSA).

3. GCC's comments herein will focus primarily on the television local ownership rule and secondarily on the radio-television cross-ownership rule. GCC's comments regarding television local marketing agreements will be brief; however, GCC wishes to incorporate by reference its comments in the Commission's Mass Media Docket Numbers 94-150, 92-51, and 87-154, which are being filed on the same date as the instant comments.

4. GCC supports the Commission's proposal to change the duopoly overlap standard from the current prohibition on Grade B overlap to the no Grade A overlap and no two stations in the same DMA approach. GCC urges great caution in any further relaxation of the television duopoly rules with regard to outright ownership, except in certain carefully-defined UHF/UHF circumstances. As set forth in its above-referenced companion comments filed in other Dockets today GCC has long been troubled by the

Commission's ownership attribution policy with regard to radio LMA's and the imprecision associated with the definition of an LMA, believes that policy is subject to substantial confusion, urges the Commission to recognize the key differences between an LMA and outright ownership, and further urges the Commission not to adopt such a policy to cover most TV LMA's.

A No Grade A Overlap/No Two Stations in the Same DMA Policy

5. For all the reasons stated in the Commission's Notice GCC believes the Commission is "right on the mark" in its proposal to allow common ownership of two full service television stations in cases in which the stations have no predicted Grade A coverage contour overlap and in which the communities of license of the stations are located in different DMA's.

6. Additionally as suggested in Paragraph 26. of the Notice, GCC believes abandoning the same-DMA prohibition in cases where the more distant Grade B contours of the two stations proposed for common ownership do not overlap is appropriate.

7. Further with regard to terrestrial Satellite television stations, GCC believes the Commission should not only "grandfather" existing combinations, but that the Commission should not preclude the creation of future co-owned parent and satellite operations based on criteria similar or identical to those imposed in the past. Generally these are cases where both

stations lie in the same geographically large yet sparsely populated DMA, but have no Grade B overlap and would thus be allowed under the further criteria set forth in Paragraph 6. above and in Paragraph 26 of the Notice; however, there still may be future instances in which allowing a co-owned satellite may be appropriate so long as there is no predicted City Grade overlap. Generally these would occur in situations in which the parent and/or the proposed satellite is a UHF facility.

8. Having never been involved in the ownership of a full service VHF station, but having owned the licensee of one UHF station since 1969 (WKPT-TV; channel 19; Kingsport, TN) and another from 1978 to 1992 (WEVU-TV; channel 26; Naples, FL [now WZVN-TV]), and having been involved since 1979 in the effort which finally culminated in GCC's ownership interest in a third UHF facility (WAXN[TV]; channel 64; Kannapolis, NC), GCC is all too well acquainted with the "UHF handicap." While the Commission may not use that term nearly as often these days, the often-dreaded rating books by which the fortunes of station licensees rise and fall and their stations live and die, still tell the story. There is a distinct UHF handicap vis-a-vis one's VHF competitors and unless and until all of broadcast television is fully-converted to the new digital mode with all stations being on UHF channels and with former VHF broadcasters and former UHF broadcasters having comparable digital UHF power levels, today's UHF broadcasters will be ---- by virtue of their UHF roots ----

forever relegated to inferior status. In a later section of the instant comments, GCC will offer examples of the UHF handicap taken from recent A.C. Nielsen Company ratings.

9. For these reasons GCC fully agrees with the Commission's inclination to afford UHF stations more lenient treatment than VHF stations in granting waivers as discussed in Paragraph 30. of the Notice.

Use Extreme Caution in Allowing City Grade TV Overlap

10. GCC urges the Commission to use extreme caution in its consideration of allowing outright common ownership of two full service television stations in cases where the predicted City Grade coverage contours of the stations whose ownership is to be combined overlap. Such combinations should be allowed routinely only in the largest markets, perhaps the ten largest markets, and should involve only UHF/UHF combinations. A defined policy should be established allowing waivers in the case of proposed UHF/UHF ownership combinations in markets smaller than the top 10. This policy should be based on criteria similar to those the Commission currently has in place with regard to waivers of the radio/TV "one to a market" common ownership rule; however, any TV policy established should be based on the number of independent full service television voices in the respective market rather than the number of independent broadcast voices (radio and TV combined).

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11. To bolster its argument in favor of allowing only UHF/UHF outright ownership combinations and to further the points made in Paragraph 8 above, GCC cites from A.C. Nielsen data it has at hand from the two markets in which it has ownership interest in full service television stations:

TRI-CITIES TN/VA - Market #93  
Average Quarter Hour Audience Shares  
Sunday through Saturday 6 AM to 2 AM  
November 1996

<u>STATION</u>	<u>DESCRIPTION</u>	<u>NETWORK</u>	<u>SHARE</u>
WAPK	UHF LPTV CH 30	UPN	< 1
WCYB	VHF CH 5	NBC	25
WEMT	UHF CH 39	FOX	5
WJHL	VHF CH 11	CBS	17
WKPT	UHF CH 19	ABC	6
WLFG	UHF CH 68	NONE	< 1

CHARLOTTE, NC - Market #28  
Average Quarter Hour Audience Shares  
Sunday through Saturday 6 AM to 2 AM  
November 1995

<u>STATION</u>	<u>DESCRIPTION</u>	<u>NETWORK</u>	<u>SHARE</u>
WBTB	VHF CH 3	CBS	20
WCCB	UHF CH 18	FOX	9
WCNC	UHF CH 36	NBC	10
WFVT	UHF CH 55		3
WHKY	UHF CH 14	IND	NR
WJZY	UHF CH 46		7

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WKAY*	UHF CH 64	IND	< 1
WSOC	VHF CH 9	ABC	20

\* Current Call Letters are WAXN

Certain Relationships Short of Outright Ownership  
Should Not Be Attributable

12. In its Comments being filed today in the Commission's companion proceeding (Mass Media Docket Numbers 94-150, 92-51, and 87-154) GCC explores the fine line which seems to exist between a network/affiliate relationship and a Time Brokerage Agreement or Local Marketing Agreement (LMA). These comments have been incorporated herein by reference.

13. Without repeating all of the points made in those companion comments, GCC wishes to emphasize that so long as a station licensee maintains control of its facility, meets the minimum staffing and main studio requirements, offers sufficient programming responsive to the problems and needs of the community to which its station is licensed, and is not as a result of its practices in the sale of program and/or commercial time part of a monopoly in restraint of trade in the eyes of the Department of Justice, another party purchasing program or commercial time on that licensee's station should not be held to have an attributable interest in the licensee's station.



14. In GCC's opinion the vast majority of LMA's should not be a concern to the Department of Justice, because the total audience concentration and degree of commercial dominance they represent lies far below the mark the Justice Department has set as constituting a dangerous concentration. GCC suggests that there are a few instances of television LMA's which deserve Justice Department scrutiny. The only such instances which come to mind are those in which both parties to the LMA are licensees of local affiliates of one of the three largest networks in the nation (ABC, CBS, and NBC). Certainly instances in which the two (or more) stations involved in an LMA routinely achieve a combined average quarter hour share (6 AM - 2 AM Sunday through Saturday) in excess of perhaps 30 per cent or where the total number of local broadcast television voices in the market including LMA'd stations is extremely limited deserve Justice Department scrutiny.

15. GCC reminds the Commission that in addition to entering into legitimate LMA's or similar agreements, which by nature of the parties involved and the strengths of their broadcast facilities do not constitute a restraint of trade, there are other very legitimate ways in which television licensees may provide additional broadcast service to their markets.

16. One such avenue (assuming it is not prematurely killed by one of the proposed policies the Commission now has under

consideration for allocation of channels for Advanced or Digital Television) is the Low Power Television or LPTV service. Through one or more LPTV stations operating separately or in combination full service telecasters can establish additional avenues of broadcast program distribution, and ---- although the general lack of cable "must carry" status has certainly hampered the LPTV industry ---- in those instances in which LPTV stations are programmed attractively, history has proven that many cable systems will indeed voluntarily carry LPTV stations. Who is better equipped to provide quality programming to an owned or LMA'd LPTV facility than an experienced full service broadcaster in the same marketplace?

17. Although the broad audience shares cited above in the Tri-City, TN/VA market in which GCC's Holston is the licensee of both a full service UHF and (two) LPTV UHF facilities do not show it, Holston's WAPK-LP (including its associated WAPG-LP and WAPW-LP) has gained carriage on some fifteen cable systems, is listed in TV Guide and all major newspapers in the market, and on occasion has ratings on individual programs, which exceed those of the local full service UHF Fox Network affiliate.

18. In order to further the strength of LPTV, the Commission should use its best efforts 1) to make it clear that LPTV stations may deliver their signals to any cable system within their DMA by any means possible (fiber optic cable, intercity

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microwave relay, etc.) and 2) to influence the Copyright Tribunal to allow cable systems to carry LPTV signals from the same DMA without copyright liability regardless of the number of miles between the LPTV station's transmitter and the cable system.

The Radio-Television Cross-Ownership or "One to a Market" Rule Should Be Somewhat Liberalized But Not Eliminated

19. GCC has no problem with the Commission's plan to extend its current policy on radio/TV cross-ownership from the existing top twenty-five markets to the top 50 markets; however, GCC believes that the recent relaxation in the radio multiple ownership rules requires the Commission to look more closely at waiver requests which, if granted, would allow creation of a combination of a VHF television station and a significant number of radio stations all of which have significant overlapping City Grade coverage. (For purposes of this discussion we define City Grade coverage in radio as that defined by the predicted 5 millivolt per meter contour for AM and the predicted 70 dBu contour for FM.)

20. While the 30 voice test will be harder to meet in the future given the radio combinations that are growing in practically every market, to allow a VHF television station to combine with six, seven, or eight radio stations with no regard to the total audience share of the facilities involved cannot be in the public interest.

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21. GCC believes, however, that the UHF exception which has long existed in the radio/TV cross-ownership rules ---- even before there was any relaxation in the radio duopoly rules ---- is still pertinent today and will remain so in the future in markets both large and small. Again the previously-cited "UHF Handicap" still exists almost universally.

22. Given the economic state of AM Radio today, the Commission should be more accomodating in cases where the radio/TV combination proposed involves only AM radio facilities. Further (and especially with regard to AM facilities), in cases in which a party seeks to control multiple radio stations within the same market, but those radio stations are in the same service and have no overlapping predicted City Grade coverage contours, the Commission should treat the part of the proposed combination in which there is no same-service City grade overlap as only one station in the respective AM or FM service. GCC notes that its Holston subsidiary is licensee of three small AM stations all located within the Johnson City/Kingsport/Bristol (Tri-Cities), TN/VA market, but that there is no predicted City grade coverage overlap among the three AM stations; although all three city grade AM contours are encompassed within the predicted City Grade contour of Holston's full service UHF station WKPT-TV. In such case, the Commission should consider the AM combination as a single station for purposes of the radio/TV cross ownership rule.

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23. GCC suggests that perhaps the Commission should include in any waiver standard a provision that the combined radio and TV audience share of the stations proposed for combination not exceed a certain percentage with the further provision that the combined share in either service (AM/FM-combined or TV) not exceed a certain percentage. For example, perhaps combinations in which the combined radio/TV share does not exceed 35%, and in which the TV share does not exceed 15%, and the radio share does not exceed 30% would be appropriate.

24. With regard to LMA's GCC again states its belief that whether the LMA is in radio or TV, it should not automatically be counted as attributable for ownership purposes. The effect of one or more LMA's existence within a combination of commonly-owned stations should be a matter for consideration by the Justice Department, not the Commission.

#### Conclusion

25. While GCC supports some liberalization of the television multiple ownership rules and the radio-TV cross-ownership rules, GCC believes the latest relaxation of the radio multiple ownership rules has in many cases resulted in the "Wal-Mart-ing" of the radio industry. That change in the radio multiple ownership regulations within a given market has changed the whole playing field and has not necessarily been a positive development for the listening or advertising public. There are

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over 12,000 radio stations in this country, but only about 1,500 full service TV stations. Currently ---- given recent de-regulation ---- one entity can own eight commercial radio stations in a given local market, but one entity can only have outright ownership of one full service commercial TV station in a given market. Perhaps it is not coincidence that 12,000 is eight times 1,500.

26. Adoption of the Commission's proposal for a new duopoly standard in TV in which generally one entity cannot own two or more full service TV stations with overlapping Grade A contours or which lie in the same DMA is a positive step. Any rule change or future policy contemplating the co-ownership of two or more full service TV stations having overlapping predicted Cuty grade contours should be limited to UHF/UHF combinations in the very largest markets.

27. Ownershuip of an LMA'd TV station should not be declared per se as attributable to the entity LMA'ing the station, and the current rules which attribbute the ownership of LMA'd radio stations to the entity LMA'ing the station should be re-visited. Respectfully submitted,

GLENWOOD COMMUNICATIONS CORPORATION

By: George E. DeVault, Jr.

George E. DeVault, Jr.  
Its President